
Appeal Decision

Site visit made on 27 August 2020

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 26 October 2020

Appeal Ref: APP/K2230/W/20/3252901
36 Whitehill Lane, Gravesend DA12 5LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jazz Gill against the decision of Gravesham Borough Council.
 - The application Ref 20191024, dated 20 August 2019, was refused by notice dated 3 January 2020.
 - The development proposed is demolition of existing bungalow and erection of one pair of semi-detached two storey dwellings with associated car parking, amenity space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing bungalow and erection of one pair of semi-detached two storey dwellings with associated car parking, amenity space and landscaping at 36 Whitehill Lane, Gravesend, DA12 5LY in accordance with the terms of the application, Ref 20191024, dated 20 August 2019, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the surrounding area.
 - The living conditions of the occupiers of surrounding properties, with particular regard to loss of privacy and outlook to the gardens of 34 Whitehill Lane and 2A Christian Fields Avenue.
 - Local highway conditions, with particular regard to the level and standard of car parking provision.
 - The Thames Estuary and Marshes SPA Special Protection Area (SPA)/RAMSAR site.

Reasons

Character and appearance

3. The character of the area is informed by its residential nature, which is suburban in feel. Dwellings come in a variety of forms, including a mixture of detached bungalows and detached and semi detached 2 storey houses. They are generally modern, mostly with traditional features and positions within their plots, such as modest set backs from the road and more generous rear gardens.

4. The existing bungalow on the site sits towards the centre of a large plot at the junction of Whitehill Lane and Christian Fields Avenue. The site slopes upwards from Whitehill Lane, sharply initially before flattening out more towards the rear. The corner position gives it a high degree of prominence in the street scene, particularly in closer views from lower ground when travelling up Whitehill Lane and more level views from Christian Fields Avenue. In these views the position and scale of the existing bungalow gives the site a spacious appearance with greenery provided by the mature garden.
5. The proposed pair of semi detached dwellings, by virtue of their greater scale as compared to the existing bungalow, would reduce the spacious appearance of the site. This would change its character to one more dominated by built forms. However, the pattern of development proposed does not appear inconsistent with that evident in the surroundings, where 2 storey dwellings of a similar scale are included within the mixture of housing types in the area.
6. The layout of the development would see the main built form located towards the centre of the site, similar to the existing bungalow, and respecting the front building line of other dwellings on Whitehill Lane. The new dwellings would be closer to the boundary with Cristian Fields Avenue but would still maintain an appropriate set back that, along with the boundary fence and the overall scale of the development, would serve to reduce the perceived mass of the dwellings from this road.
7. The proposed vehicle access on to Whitehill Lane would reduce the amount of greenery at the front of the site. However, as the area at the corner of the site nearest to the road junctions remains available for landscaping, planting in this space along with a suitable boundary treatment would be effective in screening the hardstanding. This would reduce its overall impact in public views to an acceptable degree.
8. Given the size of the site and the pattern of development in the surroundings the proposal cannot be regarded as cramped by comparison. Preventing more intensive use of this comparatively large site for housing on the grounds that it would result in more built development on it is not justified. Whilst on a prominent site, the layout of the proposal, coupled with conditions designed to secure a suitable standard of boundary treatment and landscaping, would serve to reduce the overall perception of scale to an acceptable level.
9. The previous proposal for the erection of 2 houses that was dismissed at appeal in 2018 is noted (ref : APP/K2230/W/17/3190928). Whilst I have had regard to this decision, I must also consider the present proposal on its own merits. In relation to character and appearance, the form and detailed design of the proposed houses differs from the previous proposal. The result would be a less bulky development with a roof type and other design features that would better respect the surroundings.

10. For the reasons discussed, the proposed development would not have a harmful effect on the character and appearance of the surrounding area. Consequently, I do not find conflict with Policy CS19 of the Gravesham Local Plan Core Strategy (Core Strategy) which seeks to ensure that new development achieves an acceptable standard of design that integrates well with the surrounding area.

Living conditions

11. The Council's reason for refusal highlights concerns about loss of privacy and outlook to the rear gardens of 34 Whitehill Lane and 2A Christian Fields Avenue.
12. To the rear, the plans indicate small patio areas that would be adjacent to the new dwellings. The patios are of a size that could facilitate sitting out, in addition to providing access to the wider rear garden areas. Notwithstanding a margin of uncertainty in the plans about the level that the patios would be at, they do not appear to be significantly raised as compared to the general ground floor levels of the existing bungalow and rear garden. As such, I find that views into the rear garden of 34 Whitehill Lane would not be significantly different to existing. Any minor loss of privacy resulting from the existing boundary treatment could be adequately resolved using conditions designed to provide additional screening.
13. Additional views towards the garden of 2A Christian Fields Avenue would become available because of the removal of the existing garage that sits at the boundary of the site, rather than as a result of the patios. This impact could be managed adequately with suitable boundary screening and should also be balanced against the improvements in outlook and sense of openness to the side that No 2A will gain as a result of the removal of the existing garage at the boundary.
14. For the reasons discussed, the proposed development would not have a harmful effect on the living conditions of the occupiers of surrounding properties. Consequently, I do not find conflict with Policy CS19 of the Core Strategy which seeks to ensure that new development is located in a way that safeguards the amenities of neighbouring properties.

Car parking provision

15. The plans indicate that the proposed development would provide 2 car parking spaces for each of the new dwellings. This provision would accord with the relevant local standards. I acknowledge the Council's concerns about the potential for the basement space indicated on the plans to be used as additional bedrooms, and the demand this may bring for additional parking. However, I also note that the basement spaces would have a single light source to the front from a light well. As such, the standard of light and attractiveness of these spaces is likely to limit their use as bedrooms.
16. Whilst it would not be appropriate to dictate the precise domestic use of the different rooms in the dwellings, the practical nature of the basement space goes some way to manage the risks that the Council set out and I otherwise find the level of parking provision proposed to be appropriate. I give the fact that previous proposals included 4 bedrooms limited weight due to the need to consider each development on its own merits.

17. Turning to the standard of parking provision within the site, the Council refers to an awkward dog leg manoeuvre being required to access some of the parking spaces. They present limited further evidence to explain the exact nature of the manoeuvre that is of concern or the specific impacts on highway safety that would result.
18. The plans appear to indicate a parking and turning area within the site that, from my site visit, appears generally comparable to others in the area that also provide direct access onto Whitehill Lane. On the basis of the evidence that has been presented I find the proposed arrangements to be satisfactory, subject to conditions relating to the provision of the required parking and turning area and standards of visibility onto Whitehill Lane.
19. For the reasons discussed, the proposed development would not have a harmful effect on local highway conditions, with particular regard to the level and standard of car parking provision. Consequently, I do not find conflict with Policy CS11 of the Core Strategy or saved Policies T5 and P3 of the Gravesham Local Plan First Review in relation to car parking provision for new developments.

Special Protection Area (SPA)/ RAMSAR site

20. The appeal site is located within 6km of the Thames Estuary and Marshes SPA and RAMSAR site. The sites are protected and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 and the RAMSAR convention.
21. They are an internationally important habitat for a number of important wintering water birds, including grebes, geese, ducks, and waders, and the wetland provides a habitat for varieties of plants and invertebrates.
22. As such, as the competent authority in this instance it is necessary for me to carry out an appropriate assessment as part of my decision. The Council draw my attention to research that indicates that recreational pressures resulting from net increases in residential development could have potential adverse effects which, in combination with other plans or projects in the area, may impact the sites significantly. These risks are confirmed by consultation carried out with Natural England.
23. My attention is drawn to standing advice contained in Natural England's letter dated 17 August 2015. This advice indicates that the proposed development could be 'screened out' provided an appropriate contribution is made to strategic access management measures (SAMM) across the north Kent marshes as a form of appropriate mitigation, including contribution towards projects set out in the Thames, Medway, and Swale Estuaries Strategic Access Management Strategy.
24. The sum of £223.58 has been paid to the Council as a contribution toward the SAMM. This amount is in line with the tariff indicated by Natural England. The sum of the contribution is undisputed by the Council and is considered to be appropriate as a method of managing the recreational pressures associated with the proposed development.

25. In carrying out this assessment I have had regard to the Council's own appropriate assessment dated 2 September 2020 and correspondence from Natural England confirming that they do not consider it necessary to be consulted further on an individual appropriate assessment provided the mitigation measures discussed above are secured.
26. For the above reasons, I am satisfied that specific measures would be in place to address the potential adverse effects on the SPA/RAMSAR site. Consequently, I find no conflict with Policy CS19 of the Core Strategy which seeks to ensure that detrimental effects on the integrity of the sites are avoided.

Other Matters

27. The Council have included a fourth reason for refusal relating to insufficient details being provided to assess the proposal. Their Officer Report makes reference to a number of concerns with the submitted plans, such as incorrect labels, inconsistencies, and lack of some existing plans. The Council does not provide more detailed evidence on some of these matters and the steps that they took to resolve these issues before making a decision are unclear. Notwithstanding this, and in the absence of a more detailed explanation, I find the plans provided with the appeal to be sufficient to make an informed decision.
28. However, for the avoidance of doubt, further details are required to identify accurately the ground levels and the full extent of the proposed groundworks. This matter can be the subject of a planning condition.

Conditions

29. The Council have requested that a number of conditions are imposed on any planning permission given. I shall address these below by reference to the numbers set out in the attached schedule.
30. The three year period in which the planning permission may be implemented (1) is a statutory requirement. I also consider that it is necessary in the interests of clarity to require submission and approval of additional plans, including relating to ground levels (2). It is necessary for this to be a pre-commencement condition to ensure there is sufficient certainty about these matters prior to works starting.
31. Conditions relating to sustainable drainage (3) and foul drainage (4) are imposed in order to ensure that sufficient provision is made for site drainage. It is necessary for these to be pre-commencement conditions as the measures cannot be easily retrofitted at a later stage.
32. I am satisfied that conditions requiring submission and approval of details of materials to be used on the external faces of the building (5) and in hard and soft landscaping (6 and 7) are appropriate in the interests of ensuring a satisfactory standard of external appearance and ensuring that adequate screening is provided to protect the living conditions of occupiers of neighbouring properties. Given the conclusions I reach in relation to effects on living conditions I have not included the Council's suggested condition 7 relating to the raised patio area as it would be unnecessary.

33. Conditions relating to the provision of the vehicle crossover (9), visibility splays (10), and car parking (11) are necessary in the interests of ensuring appropriate parking provision and highway safety.

34. Conditions relating to provision of refuse storage (8) and obscured glazing of bathroom windows (13) are necessary in the interests of providing satisfactory living conditions for future occupiers of the dwellings.

35. I have included a condition removing permitted development rights for the insertion of windows, doors, and other such openings in the flank elevations of the dwellings. I am mindful of paragraph 53 of the National Planning Policy Framework, which advises that permitted development rights should not be removed without clear justification. Given the proximity of the proposed dwellings to neighbours, clear justification for the removal of these rights exist in this case.

Conclusion

36. For the above reasons the appeal is allowed.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. Prior to the commencement of development, scaled drawings shall be submitted to and approved in writing by the Local Planning Authority detailing the following;
 - (a) Full topographical details (existing and proposed ground levels and site sections)
 - (b) Proposed slab levels
 - (c) Proposed layout, elevations and sections of the dwellings
 - (d) A plan indicating the extent of ground works

The development shall be built in accordance with the approved details.

3. Prior to the commencement of development, a scheme for the whole site to provide for the disposal of surface water run-off and incorporating sustainable urban drainage systems (SUDS), shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be implemented in accordance with the details approved pursuant to this condition and shall be completed prior to occupation of the development or in accordance with a timetable to be agreed in writing by the Local Planning Authority. The scheme submitted pursuant to this condition shall include the following, as appropriate:
 - (a) A scaled plan indicating the extent, position and type of all proposed hard surfacing (e.g. drives, parking areas, paths, patios) and roofed areas.
 - (b) Details of the method of disposal for all areas including means of treatment or interception for potentially polluted run-off.
 - (c) Scaled drawings including cross section, to illustrate the construction method and materials to be used for the hard surfacing (sample materials and literature demonstrating permeability may be required).
4. Prior to the commencement of the development, details of a foul drainage strategy shall be submitted to and approved by, the Local Planning Authority in consultation with the water undertaker and Environment Agency. The development shall be constructed in accordance with the agreed detailed design and recommendations of the strategy. The dwellings hereby permitted shall not be occupied until the installed scheme is confirmed as meeting the agreed specifications.
5. Prior to the commencement of any above ground works, details of all materials to be used in the external faces of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall be built in accordance with the approved details.
6. Prior to the first occupation of the dwellings hereby permitted, details of all hard landscaping (including the surfacing for the parking area and the areas surrounding the dwellings) and all boundary treatments and screening (including retaining walls, other walls, fencing and gates), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained without alteration.

7. Prior to the first occupation of the dwellings hereby permitted, a scheme detailing the proposed soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the type and species of planting to be carried out, to include their quantity and size as well as arrangements for aftercare. Thereafter the approved soft landscaping scheme shall be carried out in full during the first available planting season following first occupation of the dwellings. Any trees or plants that die, are damaged, removed or become diseased within five years from the date that the development is first brought into use shall be replaced with a species of a similar size and species during the next available planting season.
8. Prior to the first occupation of the dwellings hereby permitted, details of the means for storing refuse for each dwelling shall be submitted to and approved in writing by the Local Planning Authority and constructed in accordance with the approved details. Thereafter the approved means of storage shall be retained at all times.
9. Before the development hereby permitted is first brought into use, the existing vehicle crossovers must be removed and the kerbs reinstated and a new vehicle crossover must be constructed to serve the frontage parking area (as shown on drawing no. WSA-P1 Rev. A), in accordance with the requirements of Kent Highway Services.
10. Visibility splays of 2 metres by 2 metres shall be provided either side of the access, before the development hereby permitted is first brought into use and thereafter retained free of any obstruction in excess of 600mm in height.
11. The area shown on approved drawing no. WS-A-P1 Rev. A as a frontage parking area shall be formed and surfaced before the development hereby permitted is first brought into use and thereafter kept available at all times for such use, and no development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, or any provision equivalent to that Order in any statutory instrument revoking and re-enacting that Order, with or without modification, shall be carried out on the site in such a manner or in such a position so as to preclude its use for vehicle parking.
12. Notwithstanding the provisions of Article 3, Part 1, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification, no additional window, door or other form of opening shall be formed in either of the flank elevations of the dwellings hereby permitted.
13. All bathroom windows shall be fitted with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and shall be fixed shut, with the exception of any top hung fanlight window that has a cill level of not less than 1.7 metres above the internal finished floor level of the room it serves. Thereafter these windows shall be maintained in accordance with this condition.